

Senate File 430 - Reprinted

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1189)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a civil judgment, decree, or order of a court
2 of a federally recognized Indian tribe and including an
3 applicability provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2001SV 82
6 rh/gg/14

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1 1 Section 1. NEW SECTION. 626D.1 TITLE.
1 2 This chapter shall be cited as the "Full Faith and Credit
1 3 for Tribal Court Civil Judgments Act".
1 4 Sec. 2. NEW SECTION. 626D.2 DEFINITIONS.
1 5 As used in this chapter:
1 6 1. "Tribal court" means any court of any Indian or Alaska
1 7 native tribe, band, nation, pueblo, village, or community that
1 8 the United States secretary of the interior recognizes as an
1 9 Indian tribe.
1 10 2. "Tribal judgment" means a written, civil judgment,
1 11 order, or decree of a tribal court of record duly
1 12 authenticated in accordance with the laws and procedures of
1 13 the tribe or tribal court of record and in accordance with
1 14 this chapter.
1 15 Sec. 3. NEW SECTION. 626D.3 FILING PROCEDURES.
1 16 1. A copy of any tribal judgment may be filed in the
1 17 office of the clerk of court in any county in this state.
1 18 2. The person filing the tribal judgment shall make and
1 19 file with the clerk of court an affidavit setting forth the
1 20 name and last known address of the party seeking enforcement
1 21 and the responding party. Upon the filing of the tribal
1 22 judgment and accompanying affidavit, the enforcing party shall
1 23 serve upon the responding party a notice of filing of the
1 24 tribal judgment together with a copy of the tribal judgment in
1 25 accordance with rule 1.442 of the Iowa rules of civil
1 26 procedure. The enforcing party shall file proof of service or
1 27 mailing with the clerk of court. The notice of filing shall
1 28 include the name and address of the enforcing party and the
1 29 enforcing party's attorney, if any, and shall include the text
1 30 contained in sections 626D.4 and 626D.5.
1 31 Sec. 4. NEW SECTION. 626D.4 RESPONSES.
1 32 Any objection to the enforcement of a tribal judgment shall
1 33 be filed within thirty days of receipt of the mailing of the
1 34 notice of filing the tribal judgment. If an objection is
1 35 filed within such time period, the court shall set a time
2 1 period for a formal response to the objection and may set the
2 2 matter for hearing.
2 3 Sec. 5. NEW SECTION. 626D.5 FULL FAITH AND CREDIT FOR
2 4 TRIBAL JUDGMENTS.
2 5 1. Unless objected to pursuant to section 626D.4, a tribal
2 6 judgment shall be granted full faith and credit by the courts
2 7 of this state to the same extent and with the same effect as
2 8 any judgment, order, or decree of a court of this state.
2 9 2. If no objections are timely filed, the clerk shall
2 10 issue a certification that no objections were timely filed and
2 11 the tribal judgment shall be enforceable in the same manner as
2 12 if issued by a valid court of this state.
2 13 3. A tribal judgment shall not be granted full faith and
2 14 credit if the objecting party demonstrates by a preponderance
2 15 of the evidence at least one of the following:
2 16 a. The tribal court did not have personal or subject
2 17 matter jurisdiction.

2 18 b. The defendant was not given fair notice or a fair
2 19 hearing in the tribal court proceeding.
2 20 4. The court may grant full faith and credit or decline to
2 21 provide full faith and credit to a tribal judgment on
2 22 equitable grounds for any of the following reasons:
2 23 a. The tribal judgment was obtained by extrinsic fraud.
2 24 b. The tribal judgment conflicts with another filed
2 25 judgment that is entitled to recognition in this state.
2 26 c. As an issue of law, the tribal court was not the
2 27 appropriate forum pursuant to the parties' contractual choice
2 28 of forum, provided the party raising the legal issue must
2 29 further demonstrate that the issue was raised at each level of
2 30 the tribal court proceeding.
2 31 d. The tribal court does not grant full faith and credit
2 32 under standards similar to those provided in this chapter to
2 33 judgments of the courts of this state.
2 34 e. The cause of action or defense upon which the tribal
2 35 judgment is based is repugnant to the fundamental public
3 1 policy of the United States or this state.
3 2 Sec. 6. NEW SECTION. 626D.6 STAY.
3 3 If the objecting party demonstrates to the court that an
3 4 appeal from the tribal judgment is pending or will be taken or
3 5 that a stay of execution has been granted, the court may stay
3 6 enforcement of the tribal judgment until the appeal is
3 7 concluded, the time for appeal expires, or the stay of
3 8 execution expires or is vacated.
3 9 Sec. 7. NEW SECTION. 626D.7 CONTACTING COURTS.
3 10 The district court, after notice to the parties, may
3 11 attempt to resolve any issues raised regarding a tribal
3 12 judgment pursuant to section 626D.3 or 626D.5, by contacting
3 13 the tribal court judge who issued the judgment.
3 14 Sec. 8. NEW SECTION. 626D.8 APPLICABILITY.
3 15 This chapter shall govern the procedures for granting full
3 16 faith and credit by the courts of this state to a civil
3 17 judgment, order, or decree issued by a tribal court of any
3 18 federally recognized Indian tribe emanating from a cause of
3 19 action that accrued on or after the effective date of this
3 20 Act, provided that this chapter does not impair the right of a
3 21 party to seek enforcement under any other existing laws or
3 22 procedures.
3 23 SF 430
3 24 rh/cc/26